IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION NO : 14214 of 2004

Between:

K.Dhanpal Reddy, S/o.Narayan Reddy,
R/o.Madigadla Village, Bhootpur Mandal, Mahaboobnagar District.

..... PETITIONER

AND

1 The District Collector, Mahaboobnagar District.
2 The Mandal Revenue Officer, Bhoothpur Mandal,

Mahaboobnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the order of Respondent No.1 in proceedings No.E1/1770/2004, dated 9-2-2004 as arbitrary, illegal, violative of the Articles 14, 21 and 300A of the Constitution of India and consequently set aside the same.

Counsel for the Petitioner: MR. A.SUDERSHAN REDDY

Counsel for Respondents: GOVERNMENT PLEADER FOR REVENUE

The Court made the following ORDER:

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The petitioner occupied an extent of Ac.0-20 gts of land in Survey No.147/1 of Potha Molgara Village in Bhoothpur Mandal of Mahaboobnagar District. He dug a bore-well in the said land and cultivating the land and also other lands in Survey Nos.131 and 131/A. The first respondent herein, on a report submitted by the second

respondent, addressed a communication dated 9-2-2004 to the former, which reads as under:

> "According to the content of your report cited it is evident that an extent of Ac.0-20 gts of land in Sy.No.147/1 assigned in favour of the assignees/petitioners is under the occupation of an adjacent pattadar Sri Dhanpal Reddy and a bore well also is stated to have been drilled by him in that encroached land.
>
> After examining your report the District Collector has ordered that the assignees shall be restored to the land. If the bore is in the land of the assignees that shall ultimately go to the assignees and the owner will be compensated according to the provisions in vogue.
>
> You are therefore requested to restore the possession of the 0-20 gts of land which is under the encroachment of Sri Dhanpal Reddy in Sy.No.147/1 of Pothulamadugu Village to the assignees along with the bore well. Under cover of panchanama and report compliance within two days i.e. by 12-2-2004."

The petitioner filed the instant writ petition assailing the orders of the first respondent as above.

In the counter-affidavfit, it is stated that the land in Survey No.147/1 admeasuring Ac.38-13 gts of Potha Molgara Village was assigned to Yerukali Balaiah and others belonging to the Scheduled Tribes, that petitioner encroached upon the land and dug a bore-well in the land for irrigating his private land, that the original assignees made representations to the District Collector, Mahaboobnagar District, whereupon the orders were issued for restoration of the land to the Tribals. It is also stated that possession was already taken by the petitioner.

The learned Counsel for the petitioner, Sri G.Madhusudhan Reddy, contends that the impugned order must be held to be bad in law as no due process was followed before issuing order. In the usual course of things, the petitioner's contention must be accepted as the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for brevity, 'the Act'), as well as the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1977 (for brevity, 'the Rules'), contemplate certain procedure.

However, the learned Assistant Government Pleader for Revenue has produced record, which would show that on 16-7-2004, a panchanama was conducted and possession was taken and that at the time of conducting panchanama, petitioner, Sekhar Reddy, Yerukali Sailu, Yerukali Narasimhulu and other panchas were

present and possession was taken from the petitioner and handed over to Yerukalas. Therefore, the petitioner, at this point of time, cannot claim any right in that regard. It would be a futile exercise at this point of time to direct the Mandal Revenue Officer to conduct enquiry, issue notice and decide the matter.

Though counter-affidavit is filed along with the vacate stay petition on 16-9-2004 and though the matter was adjourned twice for filing reply affidavit, no reply affidavit is filed. Therefore, it has to be assumed that what is stated in the counter-affidavit is true state of facts. Be that as it is, so as to resume from the possession, the learned Counsel for the petitioner submits that a direction may be issued to the respondents to pay compensation for the bore-well. As the District Collector himself observes in the impugned order, the remedy of the petitioner lies elsewhere and no such direction can be granted in this Writ Petition.

The writ petition is, therefore, dismissed. No costs.

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(V.V.S.RAO, J)

Dated: 2nd November, 2004.

Ak/Bnr

To

1. The District Collector, Mahaboobnagar District.

2. The Mandal Revenue Officer, Bhoothpur Mandal,

Mahaboobnagar District.

3. Two CCs to the Government Pleader for Revenue, High Court

Buildings, Hyderabad (O.U.T).

4. Two CD copies.